

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RODNEY MOORE,

Petitioner,

v.

SCOTT ECKSTEIN, Warden,
Green Bay Correctional Institution,

Respondent.

ORDER

17-cv-771-wmc

Rodney Moore has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The subject of his petition is his February 2006 conviction in Dane County Circuit Court case 2005CF1306 for repeated sexual assault of the same child.

This conviction was the subject of a habeas petition filed by petitioner in this court in 2009, No. 09-cv-725-wmc. This court dismissed that petition summarily on February 16, 2011, finding that none of petitioner's various challenges to his conviction pointed to a real possibility of constitutional error. (No. 09-cv-725-slc, 2/16/11 Order (dkt. #14).) Although petitioner appealed the judgment, he dismissed his appeal voluntarily in May 2011. (*Id.* (dkt. #40).) Accordingly, the instant petition is at least petitioner's second petition challenging his February 2006 conviction.¹

¹ Petitioner's February 2006 conviction also was the subject of his habeas petitions in case nos. 08-cv-573-slc and 12-cv-613-wmc. This court did not consider either of those petitions on the merits: petitioner voluntarily withdrew his petition in the 2008 case, and his 2012 case was dismissed for his failure to pay the fee or otherwise prosecute it.

According to 28 U.S.C. § 2244(b)(3)(A), a petitioner may not file a second or successive application for habeas relief in the district court unless he first seeks and obtains an order from the appropriate court of appeals authorizing the district court to consider the application. Petitioner has not obtained an order from the Court of Appeals for the Seventh Circuit authorizing him to file his petition. Accordingly, this court must dismiss the petition.

ORDER

IT IS ORDERED that the petition of Rodney Moore for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE for petitioner's failure to obtain the authorization required by 28 U.S.C. § 2244(b)(3)(A).

Entered this 4th day of May, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge